

**MINUTES OF MIDWAY TOWN COUNCIL REGULAR MEETING HELD ON APRIL 5, 2021
AT 7:00 P.M. IN THE COUNCIL CHAMBER AT MIDWAY TOWN HALL, 426 GUMTREE
ROAD, MIDWAY, NORTH CAROLINA**

CALL TO ORDER

Mayor John Byrum called the meeting to order and welcomed everyone present.

Pastor Brian Graham of Faith Church in Midway gave the invocation and led in the Pledge of Allegiance prior to the opening gavel.

Councilors present were: John Byrum, Jackie Edwards, Keith Leonard, and Mike McAlpine, Absent: Berkley Alcorn and Robin Moon. Town Manager Tammy Michael, Town Attorney Jim Lanik, and Town Clerk Linda Hunt were present. Absent: Deputy Clerk Tammy Robertson.

Each Councilor had been furnished an agenda prior to the meeting.

No members of the press were in attendance.

APPROVAL OF MINUTES

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to approve the minutes of the February 25, 2021 Vision Workshop as presented.

On motion by Councilor Keith Leonard, seconded by Mayor Pro Tem Mike McAlpine, Council voted unanimously to approve the minutes of the March 1, 2021 Regular meeting as presented.

PUBLIC ADDRESS

There were none.

ADOPT AGENDA

Mayor Pro Tem Mike McAlpine requested the agenda be amended to add RESOLUTION IN OPPOSITION TO SENATE BILL 349 – RESOLUTION NO. 06-21 as Item 2. Under VII. REGULAR BUSINESS.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to adopt the agenda as amended.

PROCLAMATION

Mayor Byrum proclaimed April 10-24, 2021, as “SPRING LITTER SWEEP” time in Midway and encouraged citizens to take an active role in making their communities cleaner.

**PROCLAMATION
SPRING 2021 LITTER SWEEP**

WHEREAS, the North Carolina Department of Transportation organizes an annual spring statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and

WHEREAS, the SPRING LITTER SWEEP roadside cleanup encourages local governments, communities, civic and professional groups, businesses, churches, schools, families, and individual

citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and

WHEREAS, Adopt-A-Highway volunteers, Department of Transportation employees, Public Safety-Division of Adult Correction inmates, community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during SPRING LITTER SWEEP and may receive certificates of appreciation for their participation; and

WHEREAS, the great natural beauty of our state and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the SPRING LITTER Sweep cleanup will be a part of educating the children of this great state regarding the importance of a clean environment to the quality of life in North Carolina.

NOW, THEREFORE, I, John Byrum, Mayor of the Town of Midway do hereby proclaim April 10-24, as **“SPRING LITTER SWEEP”** time in Midway and encourage citizens to take an active role in making their communities cleaner.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the seal of the Town of Midway this the fifth day of April in the year of our Lord two thousand twenty-one.

PUBLIC HEARING

PUBLIC HEARING – REQUEST BY SHANNA TUTTLE TO REZONE .84 ACRES IN MIDWAY TOWNSHIP FROM RA-3 TO CU-RC

At the March 1, 2021 regular Town Council meeting, Town Council called for a public hearing to be held at the April 5, 2021 Town Council meeting to receive public input on the request by Shanna Tuttle to rezone a portion of Lot 63B containing .84 acres, located in Midway Township, Tax Map 20 from that of RA-3, Rural Agricultural District, to that of CU-RC, Conditional Use Rural Commercial District. Said property is located on the west side of Thomas Mock Road approximately 425 feet north of the Midway School road intersection.

The public hearing was advertised in *The Dispatch* on March 19, 2021 and March 26, 2021 as required by law.

Mayor Byrum opened the public hearing.

This being a Quasi-Judicial proceeding, Town Clerk Linda Hunt swore in those who wished to testify, and this included Davidson County Zoning Administrator Lee Crook, Davidson County Zoning Officer Travis Swain, and Shanna Tuttle.

Mr. Crook explained to Council that two actions are being requested. The first will be a vote on the rezoning which is legislative in nature and based on the Town's Land Use Plan and Zoning Ordinance. The second would be a quasi-judicial vote on the conditional use of the property if the rezoning request is approved.

Mr. Crook reported that Shanna Tuttle is requesting to rezone property in Midway Township, Tax Map 20, a portion of Lot 63B, containing .84 acres more or less. Said property is located on the west side of Thomas Mock Road approximately 425 north of the Midway School intersection. Rezoning is requested to change from that of RA-3, Rural Agricultural District, to that of CU-RC, Conditional Use Rural Commercial District.

Ms. Tuttle proposes to place a catering business on said property. The rezoning request is for approximately .84 acre of the side and rear portion of the total 1.4-acre tract. The applicant currently lives on the subject tract and will continue to live on the remainder of the 1.4 acres which will remain in RA-3 zoning. Proposed is a 30 x 40-foot residentially styled building that is to be placed on the rear portion of the property. Council was provided images of the design of the structure Ms. Tuttle proposes to erect to house her catering business.

Shanna Tuttle told Council she was born and raised in Davidson County and graduated from North Davidson High School. She said she has four children, and they live on family property that was inherited from her grandfather who raised tobacco on the land to support his family. Ms. Tuttle stated she has been operating her catering business out of her home for the last four years, but she wants to erect a building that will hold a commercial grade kitchen so that she can run her business legally in a safe environment. Having a building on that site will allow her to further expand her business and will not negatively impact the surrounding area. Ms. Tuttle told Council she had searched extensively for property in the area with commercial grade kitchens but was unable to find anything to suit her needs. She said she has been overwhelmed by the support she has received from the community and believes it is important to give back to the community whenever she can. She has provided pregame meals to four of the local high school football and basketball teams as well as catering for other school functions.

Mayor Byrum asked Ms. Tuttle if her business was seasonal to which she replied that no, it was a yearlong service.

Davidson County Zoning Administrator Lee Crook referenced the letter from Realtor Ashley Lay of Ashley Real Estate regarding her opinion of property values if a small commercial kitchen was added to the property and the zoning changed for the accommodation. Ms. Lay states in her letter that after evaluation of the property, in her professional opinion, she sees no reason for this addition to detract from the value of this property, nor would it decrease the value of the surrounding properties.

Council was also provided copies of several letters of support for Ms. Tuttle's catering business.

Mr. Crook provided the following staff analysis and recommendation for the rezoning request by Shanna Tuttle from RA-3 to CU-RC:

The Applicant is requesting to rezone a portion of a parcel of land containing .84 acre more or less from that of RA-3, Rural Agricultural District, to that of CU-RC, Conditional Use Rural Commercial District. Said property is located on the west side of Thomas Mock Road approximately 425 feet north of the Midway School Intersection.

The Applicant proposes to place a catering business on the above-mentioned property. The rezoning request is for approximately .84 acre of the side and rear portion of the total 1.4-acre tract. The Applicant currently lives on the subject tract and will continue to live on the remainder of the 1.4 acres which will remain in RA-3 zoning. Proposed is a 30 x 40 foot residentially styled building that is to be placed on the rear portion of the property. The applicant will conduct the business herself with one other employee. No walk-in customers will be allowed as Ms. Tuttle and her partner will deliver all catered

meals. Appropriate landscaping and security lighting are also proposed to make the building look residential in nature.

Thomas Mock Road is a privately maintained asphalt drive that is in good condition. It connects to Midway School Road approximately 425 feet south of the proposed rezoning. Midway School road is a two lane, state-maintained facility that would be classified as a heavily traveled collector road. While all contiguous properties are zoned residential and are occupied by dwellings or are vacant in land use, there is a wide diversity of uses located in the immediate proximity of the proposed rezoning. This part of Midway School Road has three existing businesses located in RC districts from the Ridge Road intersection to the Norman Shoaf Road intersection. There are other legal non-conforming businesses located along this part of Midway School road as well. Staff makes this point to recognize that while residential in character, this neighborhood has existing small, low-key, service-related businesses already in place.

Mr. Crook said staff realizes that the Town of Midway Land Development Plan “Future Land Use Map” that was adopted in 2008 does not promote non-residential development along the Midway School Road corridor. While the state and judicial system want jurisdictions to follow their adopted plans, there is room to deviate from them if the public benefit is served. Staff feels that the applicant’s catering business will serve an immediate need and benefit to the community as baby boomers age and the general population stays home during the COVID-19 pandemic.

Staff feels that this rezoning is reasonable due to the mixed character of the area and the conditions that help this use minimize its impact on surrounding residential properties. The “RC” zoning classification is designed to provide services to the “local” area and therefore would not be located in the Town’s center. With the proposed architecture of the building, the fact that no walk-in customers will be allowed and the landscaping that is proposed, staff feels that this low traffic business will not injure any adjoining properties and be a benefit to the community.

With the proposed conditions, staff would recommend for the approval of this request based on it being a benefit to the community with minimal impact to the surrounding residential properties.

Mr. Crook stated that at their regular meeting on March 30, 2021, the Midway Planning and Zoning Board unanimously voted to recommend approval of the request, as was set out in the Planning Board Resolution of Recommendation.

Mr. Crook advised Council that if approved, the conditions attached to the property would remain if it were to be sold.

There being no one else wishing to speak, Mayor Byrum closed the public hearing.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to approve the request by Shanna Tuttle to rezone a portion of Lot 63B containing .84 acres, located in Midway Township, Tax Map 20 from that of RA-3, Rural Agricultural District, to that of CU-RC, Conditional Use Rural Commercial District.

On motion by Councilor Keith Leonard, seconded by Councilor Jackie Edwards, Council voted unanimously to adopt the following conditions to be attached to the property:

1. Catering business only.
2. No “sit down” customers on site.
3. Just owner and possibly one other employee conducting business.
4. Appropriate landscaping.

5. Lighting.
6. 30 x 40-foot building for catering purposes.
7. Building will be designed similar to one of the submitted images.
8. Will meet all Building Inspections and Health Department regulations

Council also adopted the Resolution on Statement of Consistency. (Resolution No. 05-21)

REGULAR BUSINESS

AUDIT CONTRACT – EDDIE CARRICK, CPA, PC

In accordance with North Carolina General Statute 159-34, each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant.

Mr. Eddie Carrick has submitted a proposed contract between Eddie Carrick CPA, PC and the Town of Midway to audit the accounts of the Town of Midway for year ending June 30, 2021. Mr. Carrick will audit all required legal statements and disclosures required by generally accepted accounting principles (GAAP) and additional required legal statements and disclosures of all funds and/or divisions of the government unit during the period beginning July 1, 2020 and ending June 30, 2021. In consideration of the satisfactory performance of the provisions of this contract, the Town of Midway shall pay to the auditor, upon approval by the Secretary of the Local Government Commission (LGC), at a cost of \$4,000 for the audit plus \$1,500 for preparation of the annual financial statements for a total contract cost of \$5,500, which is the same as the previous year.

Town Attorney Jim Lanik has reviewed and approved the contract as presented.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to approve the audit contract with Eddie Carrick CPA, PC for the year ending June 30, 2021 at a total cost of \$5,500.

RESOLUTION IN OPPOSITION TO SENATE BILL 349 (SB 349)

This item was added to the agenda.

On April 1, 2021, the North Carolina League of Municipalities (NCLM) sent out an action alert for municipalities to urge legislators to oppose Senate Bill 349, citing that such legislation would eliminate local zoning control and destroy local property rights.

Resolution No. 06-21 states the Town of Midway's opposition to SB 349 and if approved, will be forwarded to our legislators.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Keith Leonard, Council voted unanimously to adopt Resolution No. 06-21 in Opposition to Senate Bill 349.

RESOLUTION NO. 06-21 RESOLUTION IN OPPOSITION TO SB 349

WHEREAS, recognizing the importance of zoning to the peace and prosperity of North Carolina's municipalities, the State of North Carolina has allowed municipalities to regulate local government for generations; and

WHEREAS, municipalities in the State of North Carolina have their own unique characteristics and challenges so that “one size” does not “fit all,” and statewide zoning mandates thus may have unintended negative consequences for the residents of the State; and

WHEREAS, SB 349 is now pending in the North Carolina General Assembly and represents a broad and comprehensive attack on local land-use decision-making and the ability of local property owners to weigh in on what is and is not appropriate development in their neighborhoods; and

WHEREAS, SB 349 would obstruct the ability of locally elected officials to consider all interests when making land-use decisions, including those of existing homeowners and property owners, who stand to lose the most incompatible uses are allowed adjacent to their property; and

WHEREAS, many North Carolina cities have led the way when it comes to making investments and policy changes designed to encourage affordable housing options, but have done so with community involvement and neighborhood-appropriate measures; and

WHEREAS, SB 349 would force municipalities to allow duplexes, triplexes, quadplexes and townhouses into all residential zones, including all low-density zoning districts, for the stated purpose of expanding housing opportunities in towns; and

WHEREAS, SB 349 mandates the allowance of “one accessory dwelling,” which can consist of a duplex, on each lot on which there is a single-family residence, circumventing all usual approval processes such as conditional district zoning, and trumping all local parking requirements and utility approval protocols without regard to the impacts of a potential tripling of density; and

WHEREAS, SB 349, under the guise of creating affordable housing, is actually a usurpation of local zoning authority, further eroding the rights of local homeowners and property owners to work through their locally elected officials to determine how development should occur in their communities and neighborhoods, and if passed, will undermine the long-term stability of the Town of Midway for its residents.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Midway, North Carolina respectfully requests that the General Assembly not adopt SB 349.

Adopted this the 5th day of April 2021.

TOWN MANAGERS REPORTS

MONTHLY FINANCIAL REPORT

Town Manager Tammy Michael provided Council with monthly financial reports for March 31, 2021 as follows:

March 31, 2021		
Total Income	\$ 1,375,962	97.2 % of overall budget
Total Expenses	\$ 638,744	45.1 % of overall budget

For information only.

REMINDER – BUDGET WORKSHIP – THURSDAY, APRIL 25, 2021 AT 6:00 P.M. AT TOWN HALL

Town Manager Tammy Michael pointed out that the correct date for the Budget Workshop is Thursday, April 22nd.

Reminder only.

ADJOURNMENT

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to adjourn the meeting at 7:34 p.m.

John Byrum, Mayor

Linda A. Hunt, Town Clerk